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Michael N. ...y, ...

United States District Court
Southern District of Texas
ENTERED

JUN 1 4 2005

Michael N. Milby, Clerk
Laredo Division

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
LAREDO DIVISION

UNITED STATES OF AMERICA	§ § §	
v.	§ §	CRIMINAL NO. L- 04-01260
JUAN MANUEL SILVA-CEDENO,	§ § § §	

ORDER

Pending before the Court is petitioner Juan Manuel Silva-Cedeno's Motion for Appointment of Counsel filed on May 23, 2005 [Doc. No. 22]. Mr. Silva-Cedeno was sentenced on January 24, 2005 [Doc. No. 19]. Judgment was entered on February 17, 2005 [Doc. No. 21]. Therefore, his motion can either be construed as a request for appointment of counsel for purposes of a direct appeal; or, for purposes of a collateral attack under 18 U.S.C. § 2255.
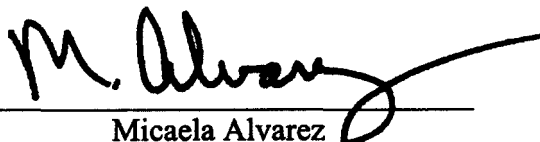
Under most circumstances, a direct appeal must be made within 10 days from the entry of judgment. *See* FED. R. APP. P. 4(b)(1)(providing that, where no appellate review is sought, a criminal conviction ordinarily becomes final when the deadline for filing a notice of appeal expires, ten business days from the entry of judgment). Because the time for a direct appeal has long since passed, appointment of counsel for a direct appeal would be pointless.

Appointment of counsel under § 2255 is subject to Rules 6(a) and 8(c), as well as 18 U.S.C. § 3006A(g).   However, petitioner has not filed a motion under 18 U.S.C. § 2255; therefore, a consideration of the appointment of counsel is premature.

Therefore, the petitioner's motion is hereby **DENIED**.

IT IS SO ORDERED.

DONE on this 10th day of June, 2005, at Laredo, Texas.

_____
Micaela Alvarez
UNITED STATES DISTRICT JUDGE

**To Insure Proper Notice, Each Party Who Receives
This Order Shall Forward a Copy of it to Every Other
Party And Affected Non-party Even Though They May
Have Been Sent One by The Court.**

CLERK
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
P.O. BOX 597
LAREDO, TEXAS 78042-0597

OFFICIAL BUSINESS

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